

# **Race Law Revisited: A Brief Review of Anti-Semitism and the Role of Lawyers in Fascist Italy**

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## **Summary of the Text**

This article is the product of extensive research on the role of lawyers and ethical legal dilemmas in Italy during the Second World War. Specifically, it represents a concise summation of the attitudes, actions, and effects of Italian lawyers in Fascist society, particularly in relation to the race laws passed by Benito Mussolini in 1938 and the subsequent treatment of Jews living in Italy. Sources consulted include an array of legal and non-legal resources ranging from a complete history of lawyers since the unification of the Republic in 1861 to a collection of narratives authored by Italian Holocaust survivors.

## **INTRODUCTION**

*La Vita è Bella*, the crowning achievement of Academy Award-winning movie star Roberto Benigni, tells the World War II-era story of the silly yet endearing Guido, an Italian Jew forced to play the role of jester-protector while shielding his son from the brutal realities of their imprisonment in a concentration camp. For Americans, it is the most well-known Italian commentary on the life of Jews during Fascist Italy, and its underlying message that “life is beautiful,” even in the face of war and inhumane atrocities, is a concept meant to identify with the commonalities of all people. The worldly scope of this message, however, goes nearly without notice for the film’s first third, which is quintessentially “Italian”—cobblestoned streets, bicycle rides, prayers to the Madonna,

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talking with hands, and, of course, over-the-top humor. Sure, the home of Guido's Jewish uncle is broken into and pillaged. Sure, Guido's bookstore door is branded a "Jewish Shop" (Negozio Ebero) by graffitists. Sure, elementary students are being taught the history of their "Aryan" race. But these short, uncomfortable moments are only peripheral to what any audience would want—the sunny hills of Tuscany and the whimsy of a peasant-meets-princess love story. It is only when Guido and his son are forced onto a train packed with other Jews that the film shifts from being idealistically "Italian" to being brutally and universally realistic. Gone is the romance of the afternoon sun and siesta. Gone are the underpinnings of family sanctity and morality. Gone, in fact, is Italy, as the remainder of the film is set in Germany,<sup>1</sup> perhaps because Benigni had no choice but to leave his country in order to tell a more tragically accurate, emotionally effective tale.

The significance of Benigni's delivery of *La Vita è Bella* should not go unappreciated by legal scholars and historians alike. Like the way of his country, he uses only these few uncomfortable moments to foreshadow Guido's fate as a Jewish-Italian before hurling his audience headlong into the throes of anti-Semitism. Italy's public anti-Semitic campaign began in 1938. Before this time, however, Italian Fascists "did not have a position ... regarding the Jewish question" because "anti-Semitism and the Jewish question were never very important" to their political endeavors.<sup>2</sup> In fact, "it does not appear that anti-Semitism had any importance," at least substantively within the Fascist movement, even for "the most vocal Fascist anti-Semites after 1938."<sup>3</sup> Many scholars attribute the sudden and rapid persecution of Italian Jews to the influence of Nazi

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1. Though the name of the concentration camp is never mentioned during the film, the movie reportedly inspired by Rubino Romeo Salmoni, an Italian survivor of Auschwitz. See Claudia Voltattorni, *Addio a Rubino Romeo Salmoni, l'ebreo di Auschwitz che ispirò Benigni*, Corriere della Sera [Farewell to Rubino Romeo Salmoni, the Auschwitz Jew that Inspired Benigni] (July 9, 2011, 8:23 PM), available at [http://roma.corriere.it/roma/notizie/cronaca/11\\_luglio\\_9/addioromeosalmonishoah1901054739642.shtml](http://roma.corriere.it/roma/notizie/cronaca/11_luglio_9/addioromeosalmonishoah1901054739642.shtml) (last visited Feb. 12, 2016).

2. RENZO DE FELICE, *THE JEWS IN FASCIST ITALY: A HISTORY* 57 (2001).

3. *Id.* at 58; see also ROBERTO FARINACCI, *STORIA DEL FASCISMO* [HISTORY OF FASCISM] (Società Editoriale "Cremona Nuova" 1940).

Germany and Mussolini's need to appease Adolf Hitler. Regardless of the motivations behind Italy's 1938 Manifesto of Race, however, it is clear that Italy's answer to the proverbial "Jewish question" differed drastically from that of Germany.<sup>4</sup> As explained herein, this may help scholars understand why, despite being the second most dominant Axis power in Europe, Italy, unlike Axis allies Germany and Japan, was never brought before the world on trial for war crimes, crimes against humanity, or crimes against peace.<sup>5</sup> Rather, despite requests by Yugoslavia, Greece, and Ethiopia for the extradition of several Italian war crimes suspects, the British government ultimately passed on the "hand-over" of these criminals due to Italy's guarantee of a post-war, anti-communist republic.<sup>6</sup>

Such repression of Italy's Holocaust-era crimes in the immediate aftermath of the war has ultimately led to what some have labeled "historical revisionism,"<sup>7</sup> and has even prompted a former prime minister to avow that "Mussolini never killed anyone. ... [He] used to send people on vacation in internal exile."<sup>8</sup> The facts, however, tell a different story in that Italy's twenty-three concentration camps were very much utilized. While the country's treatment of Jews is sometimes heralded when compared to that of Germany's, the camps nonetheless yielded thousands of dead in ways that blatantly violated preemptory norms of international law.<sup>9</sup> Carrying out such acts with any less maliciousness or intent than that of the Germans in no way excuses the remediation that should have been sought for Jewish-Italian victims, thereby begging for analysis of why such

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4. See DE FELICE, *supra* note 2, at 427.

5. The Nuremberg Trials, held in Nuremberg, Germany from November 1945 to October 1946, were a series of military tribunals conducted by the victorious Allied powers against the most prominent members of the political, military, and economic leadership of Nazi Germany. The International Military Tribunal for the Far East, similarly, was held in Tokyo, Japan from April 1946 to November 1948 and conducted in the same fashion against the leaders of the Japanese Empire most responsible for war crimes.

6. Effie Pedaliu, *Britain and the 'Handover' of Italian War Criminals to Yugoslavia 1945-48*, 39 J.

7. See ALESSANDRA KERSEVAN, FOIBE: REVISIONISMO DI STATO E AMNESIE DELLA REPUBBLICA [FOUND: REVISIONISM STATUS AND AMNESIA OF THE REPUBLIC] (2008).

8. *Comments to Media by Silvio Berlusconi*, BBC News (Sept. 11, 2003), <http://news.bbc.co.uk/2/hi/Europe/3101198.stm> (last accessed Feb. 12, 2016).

9. See DE FELICE, *supra* note 2, at 449-50.

accountability was not assessed by Italian lawyers, lawmakers, and citizens themselves.

In an attempt to address these ethical dilemmas facing Italian lawyers during World War II, Part I of this article will examine the role of lawyers in Italian society leading up to the war, as well as their general relationship to the Fascist regime taking shape. Next, Part II will assess how Italian lawyers reacted to Mussolini's anti-Semitic campaign and, in particular, the race laws of 1938. Finally, Part III will observe how Italian lawyers approached ending their country's legally-recognized treatment of Jewish-Italians, and the demand, if any, to hold accountable those officials most responsible for the acts committed.

## **PART I: POST-WORLD WAR I ITALY AND THE RISE OF FASCISM**

Following successful military operations against Austria-Hungary and a subsequent cessation of hostilities in October of 1919, Italian leaders formed a special commission to reform the Republic's bar of lawyers.<sup>10</sup> Specifically, a special panel composed of the *popolari*, or senators of the popular political party at the time, and Carlo Cantucci, the president of the Bar of Rome, assembled to create a unified bar system for all of Italy to replace the regional bar systems that had been in place.<sup>11</sup> With thousands of lawyers returning from the frontlines of the Great War to crumbling towns and villages, the reform provided a statutory means for these professionals to change residences and resume their legal duties under the jurisdiction of other regional bars without any additional qualifications or obligations of service.<sup>12</sup>

The creation of the national bar was also perceived as a spectacle of Italy's rising nationalist sentiments, which were only bolstered by Benito Mussolini's attempt to convince Italian attorneys to join his growing fascist movement. After returning from the war himself, Mussolini formed the *Fasci Italiani di Combattimento*, or the Fascist

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10. FRANCESCA TACCHI, GLI AVVOCATI ITALIANI DALL'UNITÀ ALLA REPUBBLICA [ATTORNEYS FROM THE UNIT TO THE ITALIAN REPUBLIC] 370 (2002).

11. *Id.*

12. *Id.*

Italian Combat Squad, in March of 1919. Promoting a party that propagated national unity and the nonexistence of social class as tenets that would restore Italy's "greatness" to that of Ancient Rome, Mussolini quickly gained popularity and transformed his original group of only 200 members into the National Fascist Party ("NFP").<sup>13</sup> In October of 1922, the NFP's March on Rome resulted in the ouster of Prime Minister Luigi Facta, thereby invoking King Victor Emmanuel III to invite the popular Mussolini to form a new government.<sup>14</sup> Shortly following his ascension to prime minister thereafter, Mussolini used the influence of his political magazine to invite all Italian lawyers to "accede to Fascism, a movement that wins the conscience and desires to direct the reconstruction of the nation."<sup>15</sup> This appeal was not aimed at any specific individual lawyers, but rather, because Fascism promoted a strong rule of law, it was offered to all lawyers as a choice of society.<sup>16</sup>

The support of Fascism by lawyers and their cooperation with Italy's new government was an objective that Mussolini evidently took very seriously, as he frequently wrote of attorneys as the "pillars of the regime."<sup>17</sup> In fact, Aldo Vecchini, a fascist lawyer and the eventual secretary of the Fascist Union Bar, labeled attorney support of the right-wing government as a fundamental "mission" in light of the collaboration between the judiciary and the justice administrators.<sup>18</sup> Many lawyers of the national bar, however, were skeptical of the new government's motivations.<sup>19</sup> Although Fascism garnered support from much of the military and business classes, the rapid social and economic changes in Italy led to continual political battles throughout the 1920s, thereby prompting some attorneys to caution that lawyers, as a class, could not join

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13. *Id.*

14. *Id.* at 380.

15. *Id.* at 382-83.

16. *Id.* at 383.

17. Benito Mussolini, *La Parola del Duce agli Avvocati d'Italia* [The Duce's Speech to Lawyers in Italy] (1935) in 1 R.S.F. 2, 1935, at 57, 57-58.

18. ALDO VECCHINI, *LA MISSIONE DELL'AVVOCATO NUOVO* [THE MISSION OF THE NEW LAWYER] 59 (1940).

19. TACCHI, *supra* note 10, at 406.

the in-fighting.<sup>20</sup> For example, Amedeo Sandini, a well-respected member of the national bar and future senator, warned his colleagues in 1922 that,

Italian lawyers are not regressing along with the movement that wins the conscience and strives to reconstruct the nation. They cannot, as a class or order, remain in a cowardly distrust and an attitude of expectation. Those that place themselves at the forefront of the movement are only there so as not to remain foreign to its direction.<sup>21</sup>

Sandini's sentiments were shared by others throughout the 1920s, particularly when the noose of Fascism began tightening in 1925. Piero Calamandrei, a law school professor at several Tuscan schools and contributor to the Florentine journal *Don't Give Up*, even surmised that anti-Fascist lawyers involved in the political process should "throw all of their poisonous venom and evil against the ruling party," and that the national bar should not prevent lawyers from dropping "a fair dose of blows" against the Fascist elites.<sup>22</sup> Opposition to the new regime, however, was eventually "decapitated," or at least "reduced to silence or ... mumbling,"<sup>23</sup> particularly when law firms opposing the new government were destroyed and defiant politicians, including Secretary of the Socialist Party Gaetano Pilati, were simply killed off.<sup>24</sup>

Significantly, issues involving Jewish-Italians were never a public concern in the early years of *Il Duce's* Fascist agenda. While the national bar and its lawyers were embroiled in mostly political battles with the emerging Fascist elites, Mussolini sought to improve relations with the Jewish communities through his creation of the Italy-Palestine Committee, which endeavored to "settle the relationship between [Italy] and the Jews"

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20. *Id.*; citing AMADEO SANDRINI, ERA NUOVA GIUSTIZIA NUOVA (1922).

21. *Id.*

22. *Id.* at 428.

23. DE FELICE, *supra* note 2, at 83 (internal quotation marks omitted).

24. TACCHI, *supra* note 10, at 428.

by solidifying their commitment to the state.<sup>25</sup> In fact, Jewish-Italians proved less resistant to Fascism than many believe, as most felt “a stronger sense of security” while “uncertainties and suspicion melted away.”<sup>26</sup> Mussolini advanced the totalitarianism of his movement and capitalized on this Jewish support by legally redefining Italy’s “Jewish Communities” under the new Law of the Communities of 1930.<sup>27</sup> Because these regulations were portrayed as a compromise among Fascist officials and prominent Jewish figureheads,<sup>28</sup> Italy’s national bar remained wholly silent on the issue. Indeed, there was perhaps no opportunity for lawyers, political or otherwise, to oppose the Law of Communities, as it “was welcomed favorably by the overwhelming majority of Italian Jews.”<sup>29</sup>

At the same time, Italian lawyers continued to struggle with their societal perception as an “ambiguous” class that, as Mussolini himself described, had “favored the equation between advocacy and anti-Fascism, or at least ‘not Fascism.’”<sup>30</sup> This stigma of the legal profession was also due to an “unfair persuasion” by certain political leaders that characterized the bar as an “obstacle to the revolutionary change” in Italy.<sup>31</sup> It was even considered an “attorney’s crisis” given the bar’s lack of “self-discipline” and “sense of responsibility.”<sup>32</sup>

Conversely, in neighboring Germany, the “Nazification of lawyers” in 1933 had been surprisingly rapid and was met with little opposition, primarily due to a new “professionals” law that imposed limited access to legal practice.<sup>33</sup> Interestingly, during March of the same year, new German Chancellor Adolf Hitler’s proclamation against the Jews and boycott of Jewish business was met with resistance from, among other Italians, Mussolini himself, who actually allowed “about three-

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25. DE FELICE, *supra* note 2, at 85.

26. *Id.*

27. *Id.* at 95.

28. *Id.*

29. *Id.* at 96.

30. Mussolini, *supra* note 17, at 57.

31. Germano Secreti, *Crisi dell’Avvocatura [Advocacy Crisis]*, 5 *Le Professioni e Le Arti* 9, 16 (1935).

32. *Id.*

33. TACCHI, *supra* note 10, at 534.

thousand German Jews, especially scientists, medical doctors, technicians, and professionals, to establish residence in Italy.”<sup>34</sup> Given *Il Duce's* apparent discontent with Hitler's anti-Semitic worldview and his opinion that the “Nazi anti-Semitic campaign was a political mistake,”<sup>35</sup> Italy's potential issues with the treatment of Jewish-Italians were roundly kept from the view of lawyers and citizens alike. As such, attorney resistance to race law and discrimination remained mostly absent in Italy throughout the 1930s. This would change drastically, however, when both the Nazi anti-Semitic campaign and Mussolini's allegiance to Hitler grew deeper and, in 1938, trapped *Il Duce's* Fascist agenda to the point of no return.<sup>36</sup>

## **PART II: THE EMERGENCE OF ANTI-SEMITISM**

The period of 1938-1945 has been classified as a “persecution of rights” for Jewish-Italians, and the Fascist regime was responsible for carrying out “a crescendo of measures decidedly incompatible with the myths of the alleged harmlessness of Fascist racism.”<sup>37</sup> Though distinct from the measures of Nazism, this critical point in history cannot be viewed from a perspective of relativity, *i.e.*, that Italians were “good” or “not bad” simply *because* Germans were “bad.”<sup>38</sup> By 1938, much of Italian culture, particularly in secondary and high schools as well as universities, had become widely influenced by Fascism, and was therefore subject to its course of direction.<sup>39</sup> This became particularly important when “Italian Jews in their overwhelming majority were caught completely off guard by the enactment of the first racial measures” as well as the clear indication that “Fascism had decided to follow the German example.”<sup>40</sup>

The first measures came in August of 1938 with the introduction of the *Manifesto della Razza*, a declaration proclaiming the purity of the

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34. ALBERTO THEODOLI, *A CAVALLO DI DUE SECOLI [TWO CENTURIES OF A HORSE]* 171 (1951).

35. DE FELICE, *supra* note 2, at 125.

36. *Id.* at 332.

37. TACCHI, *supra* note 10, at 538.

38. *Id.*

39. *Id.* at 539.

40. DE FELICE, *supra* note 2, at 315.



“Aryan” “Italian race.”<sup>41</sup> The *Manifesto* also explicitly declared that “[t]he Jews do not belong to the Italian race,”<sup>42</sup> and paved the way for a series of race laws over the course of a year. Despite Mussolini first urging Hitler to abandon the anti-Semitic campaign, several historians attribute *Il Duce’s* ultimate public agreement with *Der Führer* on the Jewish question solely to the fragile Italo-German alliance.<sup>43</sup> Essentially, Mussolini “decided to accommodate the National Socialists by introducing anti-Semitic legislation in Italy as evidence of his good faith,” and “conceived it as an offering calculated to solidify the Italo-German Alliance.”<sup>44</sup> As such, *Il Duce’s* now public “anti-Jewish attitude was dictated not by theoretical, but almost solely tactical, *i.e.*, political, consideration.”<sup>45</sup>

The law of June 29, 1939 was Mussolini’s most comprehensive piece of legislation dealing with professionals, and proscribed the “regulations restricting professions on the part of Italian citizens of the Jewish race.”<sup>46</sup> Generally, the law prevented Jewish doctors, lawyers, notaries, engineers, architects, journalists, and other professionals from practicing.<sup>47</sup> It did so by striking the names of these professionals from their respective professional “roles,” or registers.<sup>48</sup> It further prohibited any form of association or collaboration between Jewish and non-Jewish professionals.<sup>49</sup> With respect to lawyers specifically, Article 22 of the law proscribed that “Italian citizens of Jewish race may not be included in the roles of judicial administrators,” and “if already registered, are erased.”<sup>50</sup>

Because Jewish-Italians made up such a small percentage of practicing attorneys, however, the law was never considered a “real

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41. Guido Landra, *Manifesto della Razza* [The Manifesto of Race], note 1, (1938).

42. *Id.*

43. A. JAMES GREGOR, THE SEARCH FOR NEOFASCISM 54 (2006).

44. *Id.* at 54.

45. *Id.*

46. Regio decreto n. 1054 [Royal Decree n. 1054] (It.), *Disciplina dell’esercizio delle professioni da parte dei cittadini di razza ebraica* [Governing the exercise of professions by the citizens of Jewish race], (June 29, 1939); TACCHI, *supra* note 10, at 541.

47. R.D.L. 1054/1939 (It.), *supra* note 46.

48. *Id.*

49. *Id.* at art. 25.

50. *Id.* at art. 22.

professional death.”<sup>51</sup> If anything, “Aryan” practitioners struggled with internal conundrums when dealing with Jewish clientele,<sup>52</sup> which is perhaps what led to the disruption of the working relationships between non-Jewish lawyers and Jewish clients.<sup>53</sup> These issues were not “confined to a sphere of indifference,” but rather, stemmed more from a “field of complicity” with ruling authorities and were selectively implemented.<sup>54</sup> The leader of Italy’s first post-Fascist government, General Pietro Badoglio, went on to write about not only the German influence on crafting these laws, but the ultimate reluctance by Italians to carry them out:

It was impossible, at the time, to bring about the overt termination of the racial laws without causing a violent clash with the Germans, or to be precise, with Hitler, who has not only proposed them but had actually imposed them on Mussolini, who had declared to the Senate a few months earlier that the Jewish problem did not exist in Italy. I called several Jewish leaders and told them that, even though we could not, for the moment, radically abolish the laws, they would not be enforced.<sup>55</sup>

At the same time, outspoken anti-Fascist lawyers like Calamandrei were forced to keep their criticisms mostly underground, as lawyers became public enemies of the state.<sup>56</sup> Many lawyers, however, “found understanding and support” in their complicit decisions of the profession,

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51. TACCHI, *supra* note 10, at 542.

52. *Id.*

53. E. Collotti, INTRODUCTION TO ENZO COLLOTTI, RAZZA E FASCISMO: LA PERSECUZIONE CONTRO GLI EBREI IN TOSCANA [RACE AND FASCISM: THE PERSECUTION AGAINST JEWS IN TUSCANY] 20 (1999).

54. *Id.*

55. PIETRO BADOGLIO, L’ITALIA NELLA SECONDA GUERRA MONDIALE [ITALY IN THE SECOND WORLD WAR] 92 (1946).

56. TACCHI, *supra* note 10, at 573.

and the “vile behavior that was dictated by the need to save themselves,” in turn, “[earned] good money.”<sup>57</sup> The combination of these factors perhaps explains the complete lack of evidence to suggest that lawyers and other legal professionals organized an actual plan to reverse the course of the anti-Semitic campaign during its infancy and maturation, especially in relation to Italy’s eventual establishment of concentration camps. Essentially, lawyers were, like everyone else, subject to an agenda that snowballed radically as it aligned more with that of Nazi Germany. Calamandrei’s anti-Fascist coalition of jurists and legal scholars, the *Don’t Give Up!* movement, is the most well-known faction of lawyers to emerge from World War II Italy, and even they were rendered legally useless against a Grand Council of Fascism that garnered complete control, especially with the war fully underway in the early 1940s.<sup>58</sup>

### **PART III: LIBERATION & REINSTITUTION**

Amidst the Allied invasion of Sicily in July of 1943, Italy’s support for the war began to decline. Though the Grand Council of Fascism was still in power, its members voted, on July 25, 1943, to limit *Il Duce*’s power by turning control of the armed forces over to King Victor Emmanuel III and control of the government over to General Pietro Badoglio.<sup>59</sup> An armistice between the Allies and Rome was reached quickly thereafter on September 8, 1943, though the anti-Semitic laws remained in place.<sup>60</sup> This was due predominantly to the “immediate Nazi reaction to the announcement,” which “unfortunately did not allow ... those in the country specifically requesting the abolition of racial legislation to bring about changes by the government.”<sup>61</sup> Indeed, those a part of Italy’s new socialist republic, the RSI government, were still heavily influenced by the Germans, who continued to fight, as well as their anti-Semite agent, Italian head of state Giovanni Preziosi.<sup>62</sup>

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57. *Id.* at 545-46.

58. TACCHI, *supra* note 10, at 572.

59. DE FELICE, *supra* note 4, at 429.

60. *Id.*

61. DE FELICE, *supra* note 4, at 429.

62. *Id.* at 432.

At the time, the only prosecution that concerned the RSI was that of the Fascist leadership that turned Italy's military power over to the king. Sometime after September 8, the northern Fascists and RSI collaborators summoned the "trustworthy" Fascist leader Aldo Vecchini "to act as Executioner" and "to preside over the extraordinary special tribunal in January 1944" in Verona.<sup>63</sup> This tribunal, the *Processo di Verona*, would proceed under military law, and was used to punish "traitors" for their acts of July 25, 1943, which amounted to the "crime of treason against Fascist ideals."<sup>64</sup> By its end, six Fascists were found guilty and all but one, who was sentenced to thirty years imprisonment, were shot to death.<sup>65</sup> The terrible irony of the prosecution is obvious, as the *Processo di Verona*, a trial by Fascists for Fascists, was the most infamous judicial proceeding to emerge from World War II Italy.<sup>66</sup> This truth, however, was not lost on ordinary Italian citizens, who nearly lynched Vecchini in the streets of Rome prior to the tribunal, forcing him to appear with "visible signs of beatings" in Verona.<sup>67</sup>

It would take another year before Italy could cleanly break from the grip of both German Nazism and its own Fascism under the will of the country's National Liberation Committee ("NLC"). In actuality, the German occupation of Italy following the armistice was the most dangerous time for Jewish-Italians and outspoken lawyers, as the Nazis began the radical and systematic deportation of "state enemies" from Italy to concentration camps in Germany and Poland.<sup>68</sup> As a class, "Lawyers were among the tens of thousands of Italians who, between September 1943 and May 1945, were ... hunted and persecuted for political or racial reasons."<sup>69</sup>

It was not until the liberation of Rome from German occupation in 1944 and the eventual formation of the new Italian Republic in 1946 when

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63. TACCHI, *supra* note 10, at 553.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* at 555.

68. TACCHI, *supra* note 10, at 573.

69. *Id.*

lawyers had their first opportunity to “feel inspired to reinstate the traditional criteria of autonomy and democracy in place before 1926.”<sup>70</sup> Fascism, and the ills that plagued and shamed lawyers throughout its reign, “would soon be little more than forgotten brackets of history” as the profession welcomed the NLC’s purge of the former regime.<sup>71</sup> Though the number of lawyers sincerely devoted to Fascism may have been limited from the beginning,<sup>72</sup> well-respected lawyers like Calamandrei realized that the effects of Fascism could not simply be lost on his profession:

Out of all professional associations, the one that has suffered the most indignity from this awkward and humiliating twenty-year period of tyranny is the order of lawyers. This is because we, unlike many other professions, never found in our daily work an excuse to distract us from the reality around us ...[. Rather], we met every day, even ten times a day, to handle the laws that constituted our daily work—[the laws that were] the confirmation of our exasperating shame, especially in the years immediately following the advent of the “system.” For the exercise of patronage has been hard training of civil courage and self-sacrifice that sometimes pushed us to the sacrifice of life.<sup>73</sup>

Though Calamandrei’s underground, anti-Fascist *Don’t Give Up!* movement was literally and figuratively restricted from changing any of the anti-Semitic measures imposed throughout Mussolini’s rule, the acknowledgment of these “resistance lawyers” is certainly noteworthy,

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70. *Id.* at 555.

71. *Id.* at 554-55.

72. *Id.* at 572.

73. TACCHI, *supra* note 10, at 572.

especially in light of the now well-established tenet that even though the Italian Fascist agenda yearned for the profession's support, it nonetheless "always hated its nemeses, the lawyers."<sup>74</sup>

The profession would make sweeping reforms in the post-war world, and began by "disowning the provisions of the laws of November 1939" in favor of laws that encouraged others to join the bar.<sup>75</sup> The laws included legislation that "granted benefits to practitioners and other legal professionals with children," reforms for ministers, and the formation of a joint committee of lawyers and judges to oversee the bar's newest implementations under a system of checks and balances.<sup>76</sup> Significantly, "gone were the days when [different] organizations had to 'discuss irreconcilable positions.'"<sup>77</sup> Rather, orders were carried out to ensure "the collective interest," including "the economic interests of lawyers" and their clients.<sup>78</sup>

### CONCLUSION

While the historians and scholars noted throughout this article have proffered an array of reasons as to the effect, or lack of effect, that Italian lawyers had during Fascism and the anti-Semitic campaign, it appears evident that the prevailing conclusion on the profession is no different than that of the average Italian citizen. Because anti-Semitism was never a bedrock principle for Fascists, and because Jewish citizens made up a much smaller percentage of Italy's population than that of Germany,<sup>79</sup> it is likely that the majority of lawyers had little difficulty remaining complicit with the actions of the ruling elites. Mussolini's assassinations of opposition leaders, suppression of speech, and declarations against "state enemies" only bolster this position.<sup>80</sup> Nevertheless, not all war-time Italian lawyers have used these factors as an excuse to stay silent, and the

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74. *Id.*

75. *Id.* at 573.

76. *Id.* at 574.

77. PAOLA CAPUDI, *LE TOGHE D'ORO: L'ALTRA FACCIA DEGLI AVVOCATI CHE CONTANO* [THE GOLD ROBE: THE OTHER SIDE OF THE LAWYERS THAT COUNT] 95 (1983).

78. *Id.*

79. *See* DE FELICE, *supra* note 2, at 57.

80. *See* TACCHI, *supra* note 10, at 428, 573.

acknowledgment that lawyers could have done more is, unquestionably, a contributing factor to the progressivism promoted by the current Italian bar.<sup>81</sup>

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81. *Id.* at 572.